

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL****FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:

0 4 — 1 9

2. STATE:

Maryland

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

Medicaid

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

~~October 1, 2003~~ July 1, 2004

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:

a. FFY 2003 \$ ~~18,140,625~~ 12,47,000b. FFY 2004 \$ ~~72,562,500~~ 48,580,000

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 3.1A, Page 15D
Attachment 3.1A, Page 15B-1
Attachment 3.1A, Page 15B-2
Attachment 3.1A, Page 15B-3
Attachment 3.1A, Page 15B-4
Attachment 3.1A, Page 15B-5
Attachment 3.1A, Page 15B-6
Attachment 4.19 A&B, Page 57B9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

All new material

10. SUBJECT OF AMENDMENT:

This amendment seeks to begin claiming a Federal match for the therapeutic services
that are provided to children in certain out-of-home placements.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED:Susan J. Tucker, Executive Director
Office of Health Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Nelson J. Sabatini

13. TYPED NAME:

Nelson J. Sabatini

14. TITLE: Secretary, Department of Health
and Mental Hygiene

15. DATE SUBMITTED:

December 31, 2003

16. RETURN TO:

Susan J. Tucker, Executive Director
Office of Health Services - DHMH
201 W. Preston St., Ste 124
Baltimore, MD 21201**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

Dec. 31, 2003

18. DATE APPROVED:

AUG 31 2004

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2004

20. SIGNATURE OF REGIONAL OFFICIAL:

Susan Cuendon

21. TYPED NAME:

Susan Cuendon

22. TITLE: Associate Regional Administrator
Division of Medicaid + Children's Health

23. REMARKS:

Pen + Ink changes to items 4, 7, and 8 per State request

FEDERAL REGULATION CITATIONS:

Attachment 2.2 A	42 CFR 435.10
Attachment 2.6 A	42 CFR Part 435, Section 435.10 and Subparts G & H AT-78-90, AT-80-6, AT-80-34 1902(l) and (m) of the Act, P.L. 99-509 (Secs. 9401 and 9402), 1902(l) and (m) and 1920 of the Act, P.L. 99-509 (Secs. 9401, 9402, and 9407)
✓ Attachment 3.1 A	Part 400, Subpart B and 1902(e)(5), 1905(a)(18) through (20), and 1920 of the Act, P.L. 99-272 (sections 9501, 9505 and 9526) and 1902(a), 1902(e)(47), 1902(e)(7) through (9), and 1920 of the Act, P.L. 99-509 (sections 9401(d), 9403, 9406 through 9408) and P.L. 99-514 (section 1895(c)(3))
Attachment 3.1 B	42 CFR Part 440, Subpart B, 42 CFR 441.15, AT-78-90, AT-80-34
Attachment 3.1 C	42 CFR 431.53, AT-78-90
Attachment 3.1 F	1905(a)(24) and 1930 of the Act, P.L. 101-508 (Section 4712 OFRA 90)
Attachment 4.18 A	447.51 through 447.58
Attachment 4.18 C	447.51 through 447.53
✓ Attachment 4.19 A & B	(a) 42 CFR 447.252, 46 FR 44964, 46 FR 56046, 50 FR 23009, 1902(e)(7) of the Act, P.L. 99-509 (section 9401(d)) (b) 42 CFR 447.201, 42 CFR 447.302, AT-78-90, AT-80-34, 1902(a)(1) and (n) and 1920 of the Act, P.L. 99-509 (Section 9403, 9406 and 9407), 52 FR 28648
Attachment 4.16	42 CFR 431.615(c) AT-78-90
Attachment 4.19 D	(d) 42 CFR 447.252, 47 FR 47564, 48 FR 56046, 42 CFR 447.280, 47 FR 31513, 52 FR 28141
Attachment 4.22 A	(a) 433.137(a), 50 FR 46652, 55 FR 1423
Attachment 4.22 B	(b) 433.138(f), 52 FR 5967, 433.138(g)(1)(ii) and (2)(ii), 52 FR 5967, 433.138(g)(3)(i) and (iii), 52 FR 5967, 433.138(h)(4)(i) through (iii), 52 FR 5967
Attachment 4.22 C	Section 1906 of the Act
Attachment 4.26	1927(g) 42 CFR 456.700, 1927(g)(1)(A), 1927(g)(1)(a) 42 CFR 456.705(b) and 456.709(b), 1927(g)(1)(B) 42 CFR 456.703(d) and (e), 1927(g)(1)(D) 42 CFR 456.703(b), 1927(g)(2)(A) 42 CFR 456.705(b), 1927(g)(2)(A)(1) 42 CFR 456.705(b), 1927(g)(2)(A)(1) 42 CFR 456.705(b), (1)-(7), 1927(g)(2)(A)(iii) 42 CFR 456.705(c) and (d), 1927(g)(2)(B) 42 CFR 456.709(a), 1927(g)(2)(C) 42 CFR 456.709(b), 1927(g)(2)(D) 42 CFR 456.711, 1927(g)(3)(A) 42 CFR 456.716(a), 1927(g)(3)(B) 42 CFR 456.716 (A) and (B), 1927(g)(3)(C) 42 CFR 456.716(d) 1927(g)(3)(C) 42 CFR 456.711 (a)-(d), 1927(g)(3)(D) 42 CFR 456.712 (A) and (B), 1927(h)(1) 42 CFR 456.722, 1927(g)(2)(A)(1) 42 CFR 456.705(b), 1927(j)(2) 42 CFR 456.703(c)
Attachment 4.32 A	(a) 435.940 through 435.960, 52 FR 5967
Attachment 4.33 A	(a) 1902(a)(48) of the Act, P.L. 99-570 (Section 11005), P.L. 100-35 (Section 5(2)(3))
Attachment 4.35 A	(a) 1919(h)(1) and (2) of the Act, P.L. 100-203 (Section 4212(a))
Attachment 4.35 B	(b) Same as above

STATE PLAN OF MEDICAL ASSISTANCE
UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF MARYLAND

PROGRAM	LIMITATIONS
(Continued)	
4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.	<p>11. To participate in the Maryland Medical Assistance <u>Program as an EPSDT School Health-Related Services or Health-Related Early Intervention Services</u> provider, a provider shall:</p> <ul style="list-style-type: none"> a. At a minimum, gain annual approval by the multidisciplinary team which develops the recipient's Individualized Family Service Plan, Individualized Education Program, or 504 Written Individualized Plan for continued treatment; and b. Have experience with rendering services to individuals from birth to 21 years. <p>12. <u>Residential rehabilitative services</u></p> <p><u>Eligibility</u> - The following recipients are eligible for residential rehabilitative services to children as set forth in this Section:</p> <ul style="list-style-type: none"> a. The recipient must be Medicaid eligible and age twenty (20) years or less, b. Require rehabilitative, behavioral and mental health services determined necessary and appropriate by a licensed and/or certified practitioner of the healing arts acting within the scope of their practice as defined in state law and/or regulation. <p><u>Determination of Need</u> - A determination will be made by a child/youth/young adult service agency designated by state law and/or regulation, at Code of Maryland Regulations for residential group homes (COMAR 01.04.04-.05), regulations relating to the Department of Juvenile Services Purchase of Care (COMAR</p>

TN No. 04-19
Supercedes
TN 96-10

Approval Date AUG 3 1 2004

Effective Date JUL 1, 2004

STATE PLAN OF MEDICAL ASSISTANCE
UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF MARYLAND

PROGRAM

LIMITATIONS

(Continued)

4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

16.03.01.10) and regulations pertaining to treatment foster care in the Department of Human Resources regulations (COMAR 07.05.0-.03) that a child/youth/young adult requires more intensive and structured interventions due to exhibition or the existence of anti-social behavior, behavioral/emotional disorders, delinquency, and/or drug and alcohol abuse that prevent them from functioning normally in homes, schools and other community settings. The children who require these services have all experienced significant stress due to family instability, abuse, neglect, abandonment or other debilitating conditions and are in need of care, safety, guidance, counseling and other appropriate treatment to ameliorate the effects of these situations. Children, youth and young adults will not be placed in these settings without a formal determination of need by a licensed professional.

Duration of Services - Title XIX EPSDT recipients are eligible for covered medically necessary rehabilitative services in accordance with 42CFR440.130(d). Although children, youth and young adults will not be placed in these settings without a formal determination of need by a licensed professional, the Maryland Medical Assistance Program ("the MAP"), acting in its capacity as the single state agency for Medicaid, reserves its right of final medical necessity determination.

Covered Services -The rehabilitative needs of each eligible child/youth/young adult will be identified and a rehabilitative plan of care will be developed. Covered services are rehabilitative services determined to be necessary as included in the child/youth/young adult's plan of care. The medical or rehabilitative services are provided for the purpose of maximum reduction of

TN No. 04-19
Supercedes
TN (new)

Approval Date AUG 3 1 2004 Effective Date JUL 1, 2004

STATE PLAN OF MEDICAL ASSISTANCE
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STATE OF MARYLAND

PROGRAM	LIMITATIONS
<hr/>	
(Continued)	
4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.	<p>physical or mental disability and the restoration of the child/youth/young adult to their highest functional level, and to assist the child/youth/young adults to develop character so they are able to effectively meet the difficulties encountered in becoming responsible adults who will contribute to their communities and the State of Maryland.</p> <p><u>Evaluation and Assessment</u> - The evaluation and assessment is performed by human service professionals. It must:</p> <ul style="list-style-type: none"> a. Be clinically based; b. Be conducted by a team of trained professionals utilizing recognized evaluation protocols and acting within the scope of practice as defined in State law and/or regulation, and c. Include an evaluation of the child/youth/young adult's cognitive, emotional, social, and adaptive development. <p><u>Plan of Care</u>- The Plan of Care or service plan is developed and coordinated by human service professionals. The plan:</p> <ul style="list-style-type: none"> a. Uses information derived from the evaluation and assessment; b. Provides a statement of the child/youth/young adult's level of functioning; c. Includes a statement of services necessary to meet child/youth/young adult's needs; d. Provides information regarding the amount, duration, and scope of services; e. Describes the setting(s) in which the services are to be provided;

TN No. 04-19
Supercedes
TN (new)

Approval Date AUG 3 1 2004 Effective Date JUL 1, 2004

STATE PLAN OF MEDICAL ASSISTANCE
UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF MARYLAND

PROGRAM	LIMITATIONS
(Continued)	
4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.	<p>f. Provides definitions and descriptions of persons responsible for implementing the plan of care; and</p> <p>g. Gives a statement of expected functional outcomes.</p> <p><u>Treatment Foster Care</u> -Treatment Foster Care is a 24-hour substitute care program, operated by a licensed child placement agency for children with serious emotional, behavioral, medical, or psychological conditions. Children are placed in these settings by both the Department of Human Resources and Department of Juvenile Services. The term "treatment foster care" is synonymous with the terms "therapeutic or specialized care." Treatment foster care is more than an intense form of foster care or type of placement. It is a program designed to provide 24 hours per day high-level treatment services according to an established treatment plan in a family setting. This special foster care service is governed by regulations promulgated by the Department of Human Resources and is in COMAR chapter 07 section 05.01-03 and COMAR 07.02.21. Treatment foster care is:</p> <p>a. Provided to children/youth/young adults whose plan of care indicates a need for a structured and consistent homelike environment in order to manage their behavior;</p> <p>b. Provided to children/youth/young adults whose plan of care indicates a need for development, restoration, and/or maintenance of the skills to manage his/her mental or emotional condition;</p> <p>c. Requires face-to-face interventions with children/youth/young adults to assist a child/youth/young adult in understanding the consequences of inappropriate behaviors and adhering to a behavioral routine;</p> <p>d. Provides a twenty-four hour treatment environment.</p>

TN No. 04-19
Supercedes
TN (new)

Approval Date AUG 3 1 2004

Effective Date __JUL 1, 2004__

STATE PLAN OF MEDICAL ASSISTANCE
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STATE OF MARYLAND

PROGRAM	LIMITATIONS
(Continued)	
4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.	<p><u>Residential Rehabilitative Services</u> – These services are provided in Residential Group Homes which are regulated under COMAR 01.04.04 and provide residential treatment services to a child/youth/young adult whose highest functional level can best be improved or maintained through individual or group therapeutic interventions, so they can safely and securely interact with other persons. The placements described are made by the Department of Human Resources and Department of Juvenile Services. Each group home has licensed staff that provide or supervise the residential treatment services outlined below:</p> <ul style="list-style-type: none"> a. Symptom management through identification and minimization of the effects of behavioral or emotional symptoms that interfere with the child/youth/young adult's adaptation and community integration; b. Supportive counseling to promote interpersonal skill building, conflict resolution and self-reinforcement, and to develop, restore or maintain the child/youth/young adult's mental and emotional growth; c. Behavior modification services for child/youth/young adult exhibiting dysfunctional behavior, and fostering stability and accountability by assisting them in understanding the consequences of inappropriate behavior, and the necessity of adhering to a behavioral routine. d. Age-appropriate health and sex information for child/youth/young adults; and medication management to child/youth/young adults, and e. Twenty-four hour treatment environment;

TN No. 04-19
Supercedes
TN (new)

Approval Date AUG 3 1 2004

Effective Date JUL 1, 2004

STATE PLAN OF MEDICAL ASSISTANCE
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STATE OF MARYLAND

PROGRAM	LIMITATIONS
(Continued)	
4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.	<p>None of the services listed above are reimbursed when provided in a:</p> <ul style="list-style-type: none">a. Natural family home;b. Nursing facility;c. Intermediate care facility for the mentally retarded; andd. Institution for the treatment of mental diseases. <p><u>Provider qualifications</u> - Rehabilitative services for children will be provided only through qualified provider agencies that meet state criteria, and are under the supervision and direction of a licensed practitioner of the healing arts who will review services, direct staff on any changes relative to care, and oversee changes to the plan of care. These agencies will:</p> <ul style="list-style-type: none">a. Have an established referral system with community resources required to serve this population;b. Have a minimum of one year's experience in providing all core elements of service;c. Have the capacity to ensure the provision of quality service in accordance with State and federal requirements;d. Have a financial management capability that provides documentation and cost in conformity with generally accepted accounting principles;e. Have the capacity to document and maintain case records in compliance with state and federal requirements; andf. Meet all state and federal requirements for provider participation in the Maryland Medicaid Assistance Program.

TN No. 04-19
Supersedes
TN (new)

Approval Date

AUG 3 1 2004

Effective Date JUL 1, 2004

STATE PLAN OF MEDICAL ASSISTANCE
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STATE OF MARYLAND

PROGRAM

LIMITATIONS

(Continued)

4.B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

Service Settings - The rehabilitative services that are provided in treatment foster care and residential group homes will be provided in the least restrictive setting, appropriate to the child/youth/young adult's assessed condition, plan of care and service needs. These services are provided by private entities that contract with State agencies. This includes:

- a. Non-residential services for a child/youth who resides in a treatment foster home setting and will be provided in the home or in a customary place of business of a qualified service provider; and
- b. Residential rehabilitative services for a child/youth/young adult who resides outside of a family home (in a residential group home) and will be provided in a state licensed and/or certified facility.

Freedom of Choice - The State of Maryland assures that the provision of rehabilitative services for children/youth/young adults will not restrict an individual's choice of providers in violation of 1902(a)(23) of the Act. This means:

- a. Eligible recipients will have free choice of any qualified provider of rehabilitative services, and
- b. Eligible recipients will have free choice of the providers of other medical care as covered elsewhere in the plan.

Comparability of Services - The State assures that the provisions of rehabilitative services for children/youth/young adults will not limit an individual's access to medically necessary services in violation of section 1902(a)(10) of the Act. Therefore,

- a. Rehabilitative services for children will be made available to all children for whom this service is determined to be medically necessary, and
- b. As is required under federal rules, all other medically necessary health care services described in section 1905(a) will be provided to all EPSDT eligible recipients.

STATE PLAN OF MEDICAL ASSISTANCE
UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

UNIT RATE ESTABLISHMENT

There are two rates established one for treatment foster care and one for residential group home care. Per Diem rates for residential rehabilitative services provided to children in each of these two settings have been determined as follows:

Compute the actual cost of rehabilitative services billed and approved for payment during the most recently completed six month period for which actual cost data exists;

Cost will include only Medicaid allowable costs as determined by OMB Circular A87, Federal Cost Principles and Standards.

Divide by the number of units (days) billed and approved for payment in the sample period;

This equals the average unit (per diem) cost for rehabilitative services. This per diem cost will be billed for each day of rehabilitative services that each Medicaid recipient receives each month. Documentation of the days of rehabilitative services delivered will be retained in the client files as required by state and/or federal law for a period of six years.

These rehabilitative per diem rates will be reviewed annually to determine if an adjustment is necessary. Such adjustments will be made on a prospective basis only, utilizing the same methodology described above.

No Maintenance (room and board) amounts are included in the "Per Diem Rate" defined on the Federal Budget Impact Transmittal sheets that are part of this "Rehab Option" amendment to the Maryland Medicaid State Plan.

None of the services to be billed and paid duplicate medical services, or medical payments under any other entitlement. These Medicaid rehabilitative services will not be billed under the child welfare program so there will be no duplication of payment.

The State match for these services will be general fund dollars within the pertinent agency budget. The agencies will reimburse the providers directly for the cost of providing the services as determined by the Interagency Rate Commission. The providers will agree to allow the State agencies to bill on their behalf for the portion of the service, which is the Medicaid covered rehabilitative service. The State agencies will bill Medicaid through its Medicaid Management Information System. Medicaid will bill the Centers for Medicare and Medicaid Services for the federal match and will forward this match to the appropriate State agency.